

IN THE DISTRICT COURT OF RIO ARriba COUNTY  
STATE OF NEW MEXICO

STATE OF NEW MEXICO, on the relation of  
S. E. REYNOLDS, State Engineer,

Plaintiff,

vs.

ROMAN ARAGON, JUAN B. LUCERO, ENRIQUE SALAZAR, JR.,  
Commissioners of the Salazar Community Ditch; JOSE  
M. SALAZAR, Mayordomo of the Salazar Community  
Ditch; ROMAN ARAGON; JOSE D. ARCHULETA; JUAN D.  
ARCHULETA; HENRY V. ARELLANES; MIGUEL ANTONIO  
ATENCIO; JOE A. BRANCH; MATIAS CHACON; CANDIDO  
GALLEGOS; MRS. JANE GALLEGOS; JOSE SIRIACO  
GALLEGOS and MRS. MARY GALLEGOS; LEANDRO GAL-  
LEGOS; SANTIAGO GALLEGOS; JOE GALVEZ; FRANCISCO  
A. GARCIA; ERNESTO GARCIA; EUFRACIO GARCIA; PEDRO  
GARCIA; ALFREDO HERRERA; BENJAMIN HERRERA; FRAN-  
CISCO and SOVERINO HERRERA; RAUL F. HUGHES;  
SALAMON JARAMILLO; ELIZARDO LOBATO; DELIA and  
EPIMINO LOPEZ; MARGARITO LOPEZ; JUAN B. LUCERO;  
ABEL MAESTAS; PEDRO MAESTAS; FELIBERTO E.  
MARTINEZ; MANUEL D. and VIRGINIA MARTINEZ; PAUL  
MARTINEZ; PEDRO MARTINEZ; ROMAN F. MARTINEZ;  
SILVIANO A. MARTINEZ; WILLIE MARTINEZ; JOHN P.  
MINIER; EARL MYERS; WILLIAM B. PRINCE; S. A.  
(J. A.) QUINTANA; ANTONIO J. RODRIGUEZ; LUIS  
RODRIGUEZ; MANUEL D. RODRIGUEZ; MAX ROMERO; EDDIE  
G. ROYBAL; ALBERTO SALAZAR; CARLOS F. SALAZAR,  
JR.; ENRIQUE SALAZAR, JR.; EPIFANIO SALAZAR;  
EPIFANIO and JOSE G. SALAZAR; FEDERICO SANCHEZ;  
FIDEL SANCHEZ; FILIBERTO SALAZAR; FRANCISCO P.  
SALAZAR; JUAN B. SALAZAR; JOSE G. SALAZAR; JOSE M.  
SALAZAR; MAQUIN SANDOVAL ESTATE; PACOMIO SALAZAR;  
MRS. JEAN SALAZAR; ROSENALDO SALAZAR; ROSS SAL-  
AZAR; TOMAS SALAZAR; FEDERICO SANCHEZ; ABEDON  
SERMA; ADEN SERNA; MRS. JOAN SERNA; EDUARDO  
SERNA; ABEL TRUJILLO; PEDRO TRUJILLO; BARTOLA  
VALDEZ; JOSE BARTOLO VALDEZ; MIGUEL VALDEZ;  
CELESTINO VIGIL; EDDIE VIGIL; GUSMAN VIGIL;  
JACOBO B. VIGIL; JOSE D. VIGIL; JUAN F. VIGIL;  
LUIS VIGIL; NICOLAS VIGIL; and MISS MARGARITA WAR,

Defendants.

C O M P L A I N T  
F I R S T C A U S E O F A C T I O N

COMES NOW the plaintiff, by and through its attorneys,  
and states:

Aug. 7, 1969

FILED  
AT ALBUQUERQUE

AUG 7 1969

H. L. GREESON  
CLERK

NO. 8294

CERTIFIED TRUE COPY OF THE  
ORIGINAL FILED IN THE  
OFFICE OF THE CLERK  
BY [Signature] Deputy

I.

That the true names of the defendants, Mrs. Jane Gallegos, Mrs. Mary Gallegos, Joe Galvez, Mrs. Jean Salazar and Mrs. Joan Serna are unknown to this plaintiff and that, when their true names are ascertained, plaintiff will ask leave to insert their true names in the place and stead of their fictitious names.

II.

That S. E. Reynolds is the duly appointed and qualified State Engineer of the State of New Mexico and maintains this action on behalf of the State of New Mexico in said capacity.

III.

That the waters flowing in the Rio Chama Stream System are natural waters belonging to the public and are subject to appropriation to beneficial use and that all of the underground waters in the Rio Chama Stream System belong to the public and are subject to appropriation for beneficial use only in the manner provided by law.

IV.

That the defendants and each of them claim some right to the use of a portion of the aforesaid public waters and that there are others who make claims to said waters and that others should be made parties defendant, on the Court's own action. without further notice, as their interests appear, to the end that complete relief may be accorded to all parties.

V.

That the public interest requires that this Court determine and adjudicate all surface and underground water rights

in the Rio Chama Stream System in order for the State Engineer to properly administer said waters.

VI.

That a hydrographic survey is being conducted and prepared by the plaintiff and when portions of said survey are completed, they will be filed in this Court, and plaintiff hereby asks the Court to order the naming of additional parties on its own motion as soon as their identities become known.

VII.

That due to the tremendous number of defendants claiming interest in the waters of the Rio Chama Stream System, it is impossible to name all parties and to hear all evidence at one time.

VIII.

That it is necessary that the Court hear the testimony concerning the rights of the parties to the use of the surface and ground waters which are diverted through the Salazar Community Ditch System in Township 21 North, Range 8 East, San Juan Pueblo Grant, Rio Arriba County; and that the Court hear the evidence concerning that portion of the Rio Chama Stream System and make such interlocutory decrees as are mete and just.

IX.

That it is necessary, upon the conclusion of the testimony as to said portion of the Rio Chama Stream System, that the Court proceed in like manner to hear testimony concerning remaining portions of the Rio Chama Stream System in such manner and in such order as is feasible and make such orders concerning the use of waters of each portion of the Rio Chama Stream System as are mete and just.

X.

That when the Court has heard all of the testimony concerning surface and underground water rights in each portion of the Rio Chama Stream System, it will be necessary that the Court hear and receive all testimony necessary to the determination of all general and specific issues of fact concerning the entire stream system, and make such final findings of fact and conclusions of law and final decree as the Court may direct.

WHEREFORE, plaintiff prays:

1. That each of the defendants be required to state their claim to the use of the waters of the said stream system.

2. That the Court quiet title to the defendants' valid appropriation and use of water and that it determine and define the water rights of each of the several defendants and enter its decree stating:

- a. The water right adjudged each party.
- b. The source, priority, amount, purpose, periods and place of use.
- c. The specific tracts of land to which it shall be appurtenant.
- d. Such other conditions as may be necessary to define the rights and its priority. ✓

3. That the Court enter its order enjoining all illegal use of surface and ground waters of the Rio Chama Stream System.

4. That the Court name additional parties without further notice from time to time as it appears necessary to determine and adjudicate all the water rights of the Rio Chama Stream System.

5. That the Court enter such preliminary interlocutory and final orders as are necessary to a final determination and adjudication of all water rights of the Rio Chama Stream System, and that the plaintiff recover such costs as are mete and just.

SECOND CAUSE OF ACTION.

COMES NOW the plaintiff, by and through its attorneys, and petitions this Court for declaratory relief and for its second cause of action states:

I.

That plaintiff adopts by reference all the allegations contained in the First Cause of Action.

II.

That it is necessary for the proper administration of the Rio Chama Stream System for the plaintiff to obtain a declaratory judgment from this Court setting out the priorities of the various water rights, the lands to which said water rights are appurtenant, source of water, the purpose for which it is used and the quantity and duty of water necessary for the beneficial use for which it was appropriated.

III.

That there is an actual controversy and conflicting claims between the plaintiff and defendants and/or among the defendants as to the priorities of the various water rights, the lands to which said water rights are appurtenant, source of water, the purpose for which it is used and the quantity and duty of water necessary for the beneficial use for which it was appropriated.

WHEREFORE, plaintiff prays:

1. That the defendants, and each of them, be required to appear before the Court and describe fully and in detail what rights, if any, they have to the use of the waters of the Rio Chama Stream System and state:

- (a) When said water right was initiated.
- (b) The lands to which said water right is appurtenant.
- (c) Source of water.
- (d) Purpose for which it is used.
- (e) The quantity and duty of water necessary for the beneficial use for which it was appropriated.

2. That the Court enter a declaratory judgment determining and declaring the water rights of each of the defendants as to priority, lands to which water rights are appurtenant, source of water, purpose of use and duty of water in the Rio Chama Stream System.

3. That the Court enter its order enjoining all illegal use of surface and underground waters of the Rio Chama Stream System.

4. That the Court name additional parties, without further notice, from time to time as it appears necessary to determine and adjudicate all the water rights of the Rio Chama Stream System.

5. That the Court enter such preliminary, interlocutory and final orders as are necessary to a final determination

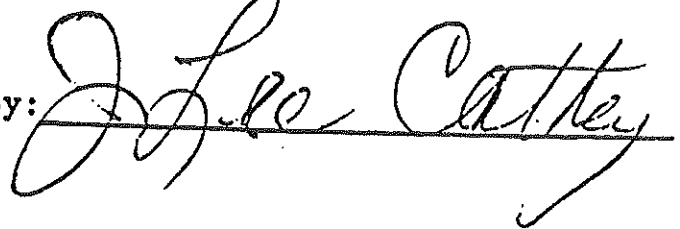
and adjudication of all water rights of the Rio Chama Stream System and that the plaintiff recover such costs as are mete and just.

CHARLES D. HARRIS  
Special Assistant Attorney General

J. LEE CATHEY  
Special Assistant Attorney General

ATTORNEYS FOR PLAINTIFF  
401 North Richardson  
Roswell, New Mexico

By:

A handwritten signature in cursive script, reading "J. Lee Cathey", is written over a horizontal line.



Case: 6:69-cv-07941-BB

3 of 9

**David Ortiz** (Doc. 4566, 9591, 9585, 9657)  
*Heritage Successor-In-Interest*

Genealogical Evidence<sup>1</sup> and  
 San Gabriel Settlement and Familial History

**David Ortiz** – Born Dec 21, 1941 in Santa Fe, NM

**José Oswaldo Ortiz** – Born Aug 24, 1915 in Santa Fe, NM married to Isabelle Lucero ca 1937 in Santa Fe, NM

**Maria del Refugio Ortega** – Born May 25, 1895 in Santa Fe, NM married to Francisco (Frank) Ortiz Jr. ca 1913 in Santa Fe, NM

**Simona Saiz** – Born ca 1875 in Rio Tesuque, NM married to Mariano Ortega ca 1891 in Santa Fe, NM

**José Anastasio Saiz** – Born ca 1849 in Santa Fe, NM married to Maria Antonia Roybal Feb 4, 1873 in Rio Tesuque, NM

**Maria Catarina Jimenez** – Born ca 1823 in Santa Fe, NM married to José Santos Saiz Oct 29, 1844 in Santa Fe, NM

**Maria Casilda Garcia** – Born ca 1793 in New Mexico married to Ramon Jimenez ca 1820 in New Mexico

**Maria del Loreto Padilla** – Born Feb 25, 1763 in Santa Fe, NM married to Gregorio Nicolas García de Alvar ca 1784 in New Mexico

**Maria Gertrudis Sena** – Born ca 1740 in New Mexico married to Manuel Padilla Jun 24, 1760 in Santa Fe, NM

**Tomas Antonio Sena** – Born ca 1706 in New Mexico married to Maria Luisa Garcia de Noriega ca 1723 in New Mexico

**Tomasa Martin Gonzalez** – Born ca 1683 in New Mexico married to Bernardino Sena y Valle Feb 8, 1705 in Santa Fe, NM

**Hernan II (El Mozo) Martin Serrano** – Born ca 1607 in San Gabriel Yunque, NM married to Josefa dela Asencion Gonzalez ca 1682 in NM

**\*Sargento Hernan Martin Serrano** – Born ca 1558 in Zacatecas, New Spain married to Ynes (mestiza) ca 1602 in San Gabriel Yunque, NM

**Historical Documentation for Sargento Hernan Martin Serrano at San Gabriel in 1598:**

**\*Sargento Hernan Martin Serrano** is one of the first settlers that came with Onate in 1598, (Hammond and Rey, Onate Colonizer of New Mexico 1595-1628. The University of New Mexico Press, 1953. Salazar Inspection, pgs. 237-238 & 291).

**Hernan Martin Serrano** and several other men participated in an interview at San Gabriel on Oct 1601 regarding conditions at San Gabriel. A report of its findings was to be delivered to the Viceroy. On question 14, "...if he knows that in the 3 years we have been here [1601 – 3 years = 1598] we have planted wheat and vegetables and that both the planting and harvest have increased". Serrano replies, "...that ever since we came here, planting and harvesting are on the increase, and he believes that it will always be so in the future" (Hammond and Rey, Onate, pgs. 704, 725 and 726).

**Hernan Martin Serrano** came to San Gabriel to acquire property to settle and to farm/ranch. In the 1598 Salazar Inspection (the inspection before the Entrada into New Mexico), Serrano declared items that would achieve his settlement goals; 15 horses, 2 mules, 20 mares, 6 colts, 22 tame cows, 2 carts, 26 oxen, horseshoes and nails, 7 augers of different sizes, 12 cutting axes, 3 adzes, 2 chisels, grindstone, and a hoe. (Hammond and Rey, Onate, pg. 237-238).

<sup>1</sup> Genealogical Research conducted by: Thomas D. Martinez, TDM Research, [tom.martinez@mindspring.com](mailto:tom.martinez@mindspring.com), 916-801-9319

<sup>2</sup> Historical references, Pat Rundstrom, Researcher



Case: 6:69-cv-07941-BB

4 of 9

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Francisco (Frank) Ortiz Jr. – Born Nov 9, 1892 in Santa Fe, NM married to Maria del Refugio Ortega ca 1913 in Santa Fe, NM

Francisco (Frank) Ortiz Sr. – Born ca Jun 1868 in Santa Fe, NM married to Maria del Rosario Duran Jan 9, 1891 in Santa Fe, NM

Ambrosio Ortiz – Born Dec 7, 1839 in Santa Fe, NM married to Maria Paula Romero 8/6/1861 in Santa Fe, NM

Jose Ygnacio Ricardo Ortiz – Born Apr 4, 1809 in Santa Fe, NM married to Maria Josefa Chavez Apr 24, 1830 in Santa Fe, NM

Ygnacio Antonio de Jesus Ortiz – Born Feb 2, 1770 in Santa Fe, NM married to Maria dela Luz Silva Oct 1, 1792 in Santa Fe, NM

Maria del Loreto Rivera – Born ca 1735 in Santa Fe, NM married to Juan Antonio Ortiz Dec 13, 1755 in Santa Fe, NM

Maria Estela Palominio Rendon – Born ca 1700 in Santa Fe, NM married to Juan Felipe Rivera Mar 24, 1715 in Santa Fe, NM

Juana Montoya – Born ca 1679 in New Mexico married to Francisco Palominio Rendon Dec 17, 1693 in Santa Fe, NM

Maria Hurrado de Salas – Born ca 1661 in Sandia, NM married to Antonio Montoya ca 1676 in New Mexico

Bernardina Salas y Trujillo – Born ca 1637 in Sandia, NM married to Andres Hurrado ca 1650 in New Mexico

Francisco Trujillo – Born ca 1623 in New Mexico married to Lucia Montoya ca 1636 in New Mexico

Catalina Vasquez – Born ca 1611 in New Mexico married to Diego Trujillo

Diego Marquez – Born ca 1590 in New Spain married to Bernardina Vasquez

\***Geronimo Marquez** – Born ca 1560 in San Lucar de Barrameda, Spain married to Ana de Mendoza

Historical Documentation for Geronimo Marquez at San Gabriel in 1598:<sup>2</sup>

\*Geronimo Marquez: While the 1598 Acoma uprising occurred, Geronimo Marquez with 67 (approx.) others guarded San Gabriel, (Gaspar Perez de Villagra, *Historia de la Nueva Mexico*, 1610, pg. 241, v-220-314 & 249; Hammond and Rey, *Onate*, pg. 461). "The town did not consist of nor possess more than one plaza, well squared off, with only four entries..." (Villagra, pg. 241, V-230-232). The Governor ordered and assigned 40 of his men to guard the four entries and his house. He named each man his assigned plaza corner post. Geronimo Marquez was assigned to guard one of the corner posts with three of his brothers and seven others (*ibid.* pg. 241, v-247-254).

Geronimo Marquez came to San Gabriel to acquire property to settle and to farm/ranch. In the 1598 Salazar Inspection (the Inspection before the Entrada into New Mexico), Marquez declared items that would achieve his settlement goals: 1 strong cart with bell and twelve oxen, 30 tame cows, 25 horses, 6 plowshares, 4 axes, and other items (Hammond and Rey, *Onate*, pgs. 250-251).

<sup>1</sup> Genealogical Research conducted by: Thomas D. Martinez, TDM Research, tom.martinez@rimsping.com, 916-801-9319

<sup>2</sup> Historical references, Pat Rundstrom, Researcher

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Francisco (Frank) Ortiz Jr. – Born Nov 9, 1892 in Santa Fe, NM married to Maria del Refugio Ortega ca 1913 in Santa Fe, NM  
 Maria del Rosario Duran – Born ca Nov 1868 in Santa Fe, NM married to Francisco (Frank) Ortiz Sr. Jan 9 1891 in Santa Fe, NM

Jose Duran – Born ca 1825 in Santa Fe, NM married to Maria Hilaria de Jesus Ortiz Oct 11, 1865 in Santa Fe, NM

Miguel Agustin Duran – Born Nov 4, 1784 in Santa Fe, NM married to Maria del Rosario Ortiz ca 1818 in Santa Fe, NM

Maria Manuela Reano – Born Mar 22, 1758 in Santa Fe, NM married to Jose de Jesus Ortiz Jun 26, 1774 in Santa Fe, NM

Jose de Reano – Born ca 1729 in New Mexico married to Ana Maria Ortiz Jun 14, 1747 in Santa Fe, NM

Maria Roybal – Born ca 1695 in New Mexico married to Jose Reano ca 1725 in New Mexico

Francisca Gomez Robledo – Born ca 1668 in Santa Fe, NM married to Ygnacio Roybal y Torrado Feb 8 1694 in Santa Fe, NM

Andres Gomez Robledo – Born ca 1639 in Santa Fe, NM married to Juana Ortiz Baca ca 1666 in Santa Fe, NM

Ana Robledo – Born ca 1604 in San Gabriel del Yunque married to Francisco Gomez ca 1619 in New Mexico

**\*Bartolome Romero** – Born Apr 6, 1563 in Corral de Almaguer, Toledo, Spain married to Luisa Robledo ca 1599 in New Mexico

**Historical Documentation for Bartolome Romero at San Gabriel in 1598:**

**\*Bartolome Romero** is one of the first settlers that came with Onate in 1598, (see Hammond and Rey, Onate Colonizer of New Mexico 1595-1628. The University of New Mexico Press, 1953. Salazar Inspection, pgs. 264-265). Luisa Lopez Robledo (wife of Bartolome Romero) came on the original Onate expedition in 1598 with her parents Pedro Robledo & Catalina Lopez along with her brothers and sisters (Fray Anglico Chavez, Origins of New Mexico Families, 1975 edition, pgs. 95 and 93).

Luisa's Lopez Robledo (Bartolome Romero's wife) brother (Francisco Robledo) was at the battle of Acoma in 1598 (Hammond and Rey, Onate, pg. 451). After the 1598 Acoma Battle he and 67 (approx.) others guarded San Gabriel, (Gaspar Perez de Villagra, Historia de la Nueva Mexico, 1610, pg. 241, v-220-314 & 237). "The town did not consist of nor possess more than one plaza, well squared off, with only four entries..." (Villagra, pg. 241, v-230-232). The Governor ordered and assigned 40 of his men to guard the four entries and his house. He named each man his assigned plaza corner post. Francisco Robledo was assigned to guard one of the corner posts with seven others (ibid. pg. 241 v-235-241). One Romero female out of 27 females led by Dona Euphemia (wife of Captain Francisco de Sosa Penalosa) guarded the rooftops and high terraces with "discharging flying balls into the air" (ibid, pg. 243, v-300). Luisa's brother Pedro Robledo died at the 1598 Acoma battle (Hammond and Rey, Onate, pgs. 437-438 & 451) and her father Pedro Robledo died and was buried May 21, 1598 (Hammond and Rey, Onate, pg. 316).

Bartolome Romero came to San Gabriel to acquire property to settle and to farm/ranch. In the 1598 Salazar Inspection (the Inspection before the Entrada into New Mexico), Romero declared items that would achieve his settlement goals; one cart with oxen and one plowshare, 20 horses, 6 mules and other items. (Hammond and Rey, Onate, pgs. 264-265).

<sup>1</sup> Genealogical Research conducted by: Thomas D. Martinez, TDM Research, [tom.martinez@tmdresearch.com](mailto:tom.martinez@tmdresearch.com), 916-801-9319

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Case: 6:09-cv-07941-BB

6 of 9

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Francisca Gomez Robledo – Born ca 1668 in Santa Fe, NM married to Ygnacio Roybal y Torrado Feb 8 1694 in Santa Fe, NM

Andres Gomez Robledo – Born ca 1639 in Santa Fe, NM married to Juana Ortiz Baca ca 1666 in Santa Fe, NM

Ana Robledo – Born ca 1604 in San Gabriel del Yunque married to Francisco Gomez ca 1619 in New Mexico

Louisa Robledo – Born ca 1585 in Lugar de Carnena, Spain married to Bartolome Romero ca 1599 in New Mexico

**\*Pedro Robledo** – Born ca 1538 in El Carnero, Maqueda, Toledo, Spain married to Catalina Lopez ca 1568 in Toledo, Spain

**Historical Documentation for Pedro Robledo at San Gabriel in 1598:**

**\*Pedro Robledo** is one of the first settlers that came with Onate in 1598, (see Hammond and Rey, Onate Colonizer of New Mexico 1595-1628. The University of New Mexico Press, 1953. Salazar Inspection, pg. 265). Pedro Robledo came to San Gabriel to acquire property to settle and to farm/ranch. In the 1598 Salazar Inspection (the Inspection before the Entrada into New Mexico), Pedro Robledo declared items that would achieve his settlement goals; one cart with twelve oxen, 6 tame cows, 40 horses, 6 colts, 5 mules, 20 mares and other items (Hammond and Rey, Onate, pg. 265).

**Pedro Robledo** died and was buried on May 21, 1598 (Hammond and Rey, Onate, pg. 316). His wife (Catalina Lopez), four sons (Diego, Alonso, Pedro, Francisco), daughter (Luise Lopez Robledo) and son-in-law, Bartolome Romero continued the entrada to San Gabriel (Hammond and Rey, Onate, pgs. 265, 437-438, and 451; Villagra, pg. 243, v-300, pg. 241, v-235-241).

<sup>1</sup> Genealogical Research conducted by: Thomas D. Martinez, TDM Research, [tom.martinez@mindspring.com](mailto:tom.martinez@mindspring.com), 916-801-9319  
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Case: 6:09-cv-07941-BB

7 of 9

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Maria del Refugio Ortega – Born May 25, 1825 in Santa Fe, NM married to Francisco (Frank) Ortiz Jr. ca 1913 in Santa Fe, NM

Mariano Ortega – Born ca 1869 in Rio Tesuque, NM married to Simona Saiz ca 1891 in Santa Fe, NM

José Vicente Ortega – Born Jan 25, 1842 in Rio Tesuque, NM married to Perfila Esquivel Feb 13, 1860 in Rio Tesuque, NM

José Rafael Ortega – Born May 7, 1788 in Santa Fe, NM married to Maria del Loreto Benavides Dec 22, 1811 Santa Fe, NM

José Ortega – Born 1757 in New Mexico married to Maria Josefa Padilla ca 1775 in New Mexico

Tomás Ortega – Born ca 1730 in New Mexico married to Olaya Marquez Oct 30, 1751 in Santa Fe, NM

Sebastiana Gonzalez Bas – Born ca 1699 in New Mexico married to Geronimo Ortega Jul 9, 1715 in San Yldefonso, NM

Capitan Sebastián Gonzalez Bas – Born ca 1660 in New Mexico married to Lucia Ortiz ca 1683 in New Mexico

Alferez Juan Gonzalez Bernal – Born ca 1627 in Santa Fe, NM married to Apolonia Varela ca 1642 in New Mexico

Ysabel Bernal – Born ca 1601 in San Gabriel Yunque, NM married to Sebastian Gonzalez ca 1613 in New Mexico

\***Juan Griego** – Born ca 1566 in Negroponte, Candia, Crete, Greece married to Pascuala Bernal ca 1598 in San Gabriel Yunque, NM

**Historical Documentation for Juan Griego at San Gabriel in 1598:**<sup>2</sup>

\***Juan Griego** (a native of Greece) is one of the first settlers that came with Onate in 1598, (see Hammond and Rey, Onate Colonizer of New Mexico 1595-1628. The University of New Mexico Press, 1953. Salazar Inspection, pg.263 and 293).

**Juan Griego's wife:** While the 1598 Acoma uprising occurred, Onate ordered 40 men to guard San Gabriel, (Gaspar Perez de Villagra, Historia de la Nueva Mexico, 1610, pg. 241, v-220-264). "The town did not consist of nor possess more than one plaza, well squared off, with only four entries..." (Villagra, pg. 241, V-230-232). Juan Griego's wife out of 27 females led by Dona Euphemia (wife of Captain Francisco de Sosa Penalos) guarded the rooftops and high terraces with "discharging flying balls into the air" (ibid, pg. 243, v-305).

<sup>1</sup> Genealogical Research conducted by: Thomas D. Martinez, TDM Research, tom.martinez@mindspring.com, 916-861-9319

<sup>2</sup> Historical references for Hernan Martin Serrano: Pat Rundstrom, Researcher



Case: 6:69-cv-07941-BB

8 of 9

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Ygnacio Antonio de Jesus Ortiz – Born Feb 2, 1770 in Santa Fe, NM married to Maria dela Luz Silva Oct 1, 1792 in Santa Fe, NM

Maria del Loreto Rivera – Born ca 1735 in Santa Fe, NM married to Juan Antonio Ortiz Dec 13, 1755 in Santa Fe, NM

Maria Estela Palominio Rendon – Born ca 1700 in Santa Fe, NM married to Juan Felipe Rivera Mar 24, 1715 in Santa Fe, NM

Juana Montoya – Born ca 1679 in New Mexico married to Francisco Palominio Rendon Dec 17, 1693 in Santa Fe, NM

Antonio Montoya – Born ca 1642 in Santa Fe, NM married to Maria Hurtado de Salas ca 1676 in New Mexico

Diego Montoya – Born ca 1586 in Texcoco, New Spain married to Maria Ortiz Baca de Vera ca 1639 in New Mexico

**\*Bartolome Montoya** – Born ca 1565 in Catillana, Sevilla, Spain married to Maria Zamora ca 1585

**Historical Documentation for Bartolome Montoya at San Gabriel :**

\*Bartolomé Montoya came to San Gabriel del Yunque with the reinforcement party to San Gabriel in December 24 1600 with his wife Maria, sons Francisco, Diego and José and daughters Lucia and Petronia (all under the age of sixteen in 1600) as a member of the second wave of 65 settlers and twenty five servants with their cattle and equipment. He was a native of Cantillana (near Sevilla, {Spain}), the son of Francisco de Montoya. His wife was Maria de Zamora, born in Mexico City at San Sebastian, the daughter of Pedro de Zamora who was a resident of that city and former Alcalde Mayor of Oaxaca (Mexico). Her mother's name was Agustina Abarca. (Cybergata.com/roof/5370.htm, pg. 1).

<sup>1</sup> Genealogical Research conducted by: Thomas D. Martinez, ITDM Research, [tom.martinez@mindsping.com](mailto:tom.martinez@mindsping.com), 916-801-9319; Research: Cybergata.com/roof/5370.htm, pg. 1  
<sup>2</sup> Historical references, Pat Rundstrom, Researcher

10893

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, on the relation  
The State Engineer,  
MV/LFG 69cv-

Case No. 07941-

Plaintiff,

Rio Chama Stream System

v.

Section 1 (mainstream)

ROMAN ARAGON, et al,

Defendants.

To: The Honorable Magistrate Judge Lorenzo F. Garcia

From Defendant: david ortiz, Plebian,  
Acequia de Chamita

Acequia de Chamita Parciante Findings of Fact and  
Conclusion regarding our Priority Date

David Ortiz Parciante and Commissioner of the Acequia de Chamita, and Cecilia Ortiz, Husband and Wife, both known and identified as Subfile 267 on Map 22, Tract 17, by the State of New Mexico, Come now before the Court and the Special Master and request that the following Findings of Fact and Conclusion be adopted with regard to the Establishment Date of our water rights under the Acequia de Chamita. The date of change of ownership from Alfredo Salazar Sr. to us is January 30, 1976, property rights which included the water. We draw our water from the Acequia de



Chamita. I cannot separate myself from the Acequia, or else I would have no water. The Acequia has a perpetual easement through my property. I have the same establishment date as the Acequia. I do not have a different establishment date than the Acequia. The Acequia was dug first, on August 11, 1598, after, the lots were assigned for irrigation rights of the land, of which I am now the present owner. I am the expert on the history of the establishment date of my Acequia de Chamita, based on evidence and exhibits I have submitted to the Court and this is the summary of facts and conclusions;

**FINDINGS OF FACT: True History of the Acequia de Chamita**

Introduction: Doc.9597, filed 2/20/2010 State of New Mexico's Motion to Adopt, *in part*, To Modify and Objections to Special Master's Report on Priorities for Three Acequias. Page 4. "While the above requested modifications may seem minor in nature, the State makes these requests because questions regarding the historical events in this area are likely to arise in other contexts in these proceedings. For this reason, the Court's adoption of findings of fact should be as accurate as possible to avoid confusion and the need for clarification in the future."

1. On September 21, 1595, Viceroy Don Luis de Velasco, governor of New Spain, was read and examined the petition offered by Don Juan de Onate and accepted the offer for the discovery, pacification and conquest of the provinces of New Mexico.

2. Laws of the Indies 1573, #2: The Viceroy was responsible for choosing the best suited person to carry out discoveries, negotiate a contract and issue a license to proceed with the discovery according to the Laws of the Indies.

3. Onate many years previous to his offer had made a careful study to find out all he could learn about the "new" provinces for the King to expand his Empire.

4. Laws of the Indies 1573, #34: The following sequence should be adhered to in selecting the site: a. Choose the province, county and place that will be settled, b. Consider the health of the area, c. from the abundance of old men, d. or of young men of good complexion, e. of natural fitness and color, f. without illness, g. the abundance of healthy animals and of sufficient size, h. healthy fruits and fields, i. of good climate, j. the sky clear and benign, k. the air pure and soft, l. of good temperature, without excessive heat or cold, having to decide it is better to be cold.

5. On April 30, 1598, Don Juan de Onate dispatched by King Phillip II of Spain, took possession for the Spanish Empire of all "things" he would set foot on, at the Rio del Norte in the area we now know as El Paso.

6. Onate went ahead of the main party with an advance army of approximately 60 soldiers to scout and find a road for the main army with the carts.

7. Laws of the Indies 1573, #35: they should be in fertile areas with an abundance of fruits and fields, of good land to plant and harvest, of grasslands to grow livestock, of mountains and forests for wood and building materials for homes and edifices and of good and plentiful water supply for drinking and irrigation.

8. Onate and the advanced army arrived at a cluster of Indian pueblos at the confluence of the Zama (Chama River) and the Rio del Norte on July 11, 1598. They settled in the 400 house Indian pueblo the Okhay Owingeh pueblos, they named San Juan, after John the Baptist, and San Gabriel, where they established the Royal government. It was here they would begin to convert the Indians to Catholicism. The province and valley was also named San Juan and comprised all the pueblos in the valley.

9. Laws of the Indies 1573, #110. Having made the discovery, selected the province and the site in the location where the new town is to be built, and having taken possession of it, those placed in charge of its

execution are to do it in the following manner: On arriving at the new place where the new settlement is to be founded- which according to our will and disposition shall be one that is vacant and that can be occupied without doing harm to the Indians and natives or with their free consent- a plan for the site is to be made, dividing it into squares, streets and building lots, using cord and ruler.....

10. Laws of the Indies 1573, #40. ....(A)nd in case there should be a need to build on the banks of a river, it should be on the eastern bank, so that when the sun rises it strikes the town first, then the water.

11. Laws of the Indies 1573, #36: And that they should be populated by Indians and natives to whom we can preach the gospel since this is the principal objective for which we mandate these discoveries and settlements be made.

12. Onate went north to subjugate the pueblos of Picuris and Taos on the 13<sup>th</sup> of July, 1598 and on the 19<sup>th</sup> returned to the valle de San Juan.

13. Onate visited the following pueblos on the following dates: On the 20<sup>th</sup> San Ildefonso; on the 21<sup>st</sup> to San Marcos; on the 22<sup>nd</sup> to San Cristobal; on the 24<sup>th</sup> to Galisteo, which they named Sant Ana; on the 25<sup>th</sup> to Pecos, which Espejo called the province of the Tamos; on the 26<sup>th</sup>, they returned to San Cristobal for dinner and spent the night at San Marcos; on the 27<sup>th</sup> they returned to the valley of Santo Domingo. The maese de campo arrived with all the carts and the main part of the army, almost at the same hour. They remained together until August 1.

14. On August 2, after mass in the church of the friars of St. Francis, the governor set out for the province of the Emes. They spent the night at the great pueblo of Tzia.

15. On August 3, they went on to the great pueblo of Emes. They found an Indian wearing a patten which belonged to two friars that had

been killed in the first discovery and traded hawks bells for it. It is now kept in the ciborium of this convent of San Juan, they wrote.

16. On the 4<sup>th</sup> they went down to other Emes pueblos. They were told there were 11, they saw 8.

17. On the 5<sup>th</sup> they went down to the last pueblo where they saw the marvelous hot baths the waters of which rise in many places. They are unusual marvels of nature, having cold and very hot waters, and many deposits of sulphur and alum.

18. On the 6<sup>th</sup> after mass at the convent there, which they named the Transfiguration, they left and camped for the night on their way back to headquarters.

19. On the 7<sup>th</sup> they arrived back at Santo Domingo.

20. On the 8<sup>th</sup> & 9<sup>th</sup> they left and remained in San Ildefonso.

21. On the 10<sup>th</sup> after mass, they went to San Juan.

**22. On the 11<sup>th</sup> they began work on the irrigation ditch (Acequia) for the city of our father, Sant Francisco, de los Espanoles.. Some fifteen hundred barbarian Indians gathered on this day and helped with the work.**

23. Laws of the Indies 1573, #130-131-132. Farm land was assigned by lottery, irrigated lands by lot distributed in same proportion as the settlers lots. The settlers should immediately plant the seeds they brought to obtain abundant food and then build their houses. The cattle branded, gathered in pastures so that they may soon begin to breed and multiply.

24. The Acequia was necessary for the Spanish Colonizers to maintain and sustain themselves in Spain's new expanding Empire.

25. The Spanish Colonists under Onate were prepared to farm, to produce their own sustenance by bringing seeds and tools, irrigating their lands from an Acequia irrigation system in their settlement for their use and maintenance.

26. Laws of the Indies 1573, #39. The site and position of the towns should be selected in places where water is nearby and where it would be possible to demolish neighboring towns and properties in order to take advantage of the materials that are essential for building; and [these sites and positions should be suitable] also for farming, cultivation and pasturation, so as to avoid excessive work and cost, since if any of the above would be costly if they were far.

27. They waited for the main army and the carts until August 18 of the said year, 1598, when they arrived.

28. On the 23<sup>rd</sup>, the building of the church was started, and it was completed on September 7. It was suitable for the people of the camp. (460 to 500)

29. Laws of the Indies 1573, #119. For the temple of the principal church, parish, or monastery, there shall be assigned specific lots; the first after the streets and plazas have been laid out, and these shall be a complete block so as to avoid having other buildings nearby, unless it were for practical or ornamental reasons.

30. On September 8, the great celebration of the dedication of the church of Saint John the Baptist took place. The Church was in San Gabriel, identified as one of the San Juan Cluster of Pueblos. It was blessed by the father commissary, Fray Alfonso de Martinez, who also consecrated the altar and the chalices. Father Salazar delivered the sermon. In the afternoon the whole camp celebrated with a good sham battle between Moors and Christians.

31. On the 9<sup>th</sup>, a general assembly was held of all the country thus far discovered, and its provinces were distributed among the eight friar priests of the order of Saint Francis.

32. On September 9, 1598, Father Salazar was assigned the province of the Teguas, the pueblos of San Yldefonso, Santa Clara, this pueblo of San Juan Bautista and San Gabriel and in addition the city of San Francisco de los Espanoles, which is being built now.

33. In the San Juan valley, province of the Teguas, he left Father Fray Cristobal de Salazar, and his companion, Fray Juan de San Buenaventura, a lay brother. They were placed in charge of the camp and its Indians.

34. Laws of the Indies 1573, #135-137. While building the town, with care and hurry to complete, the settlers should try to avoid communication and traffic with the Indians, or going to their towns, or amusing themselves or spilling themselves on the ground [sensual pleasures]; nor should they allow the Indians to enter within the confines of the town until it is built. The settlers should build their own town without taking what belongs to the Indians and without doing them more harm that it were necessary for the protection of the town in order that the settlers are not disturbed.

35. The Enrico Martinez map shows what was under Spanish Domain in 1602. It is a freehand drawn map, not to scale, not accurate in place or spelling of names or complete, as the notes on the map note.

36. Torquemada in his *Monarchia Indiana*, cap. XXXVII, identifies the place where the Royal Seat of the Spanish Government was established, as being named San Gabriel and being located between two rivers, irrigated by the smaller, the larger one named del Norte. He describes all the things that are grown there by irrigation water taken from the smaller river, like wheat, barley, corn and Castilian garden vegetables.

37. The previous chapter of Torquemada's cap. XXXVII in *Libro Quinto*, page 672, is written in November, 1602.



38. In Torquemada Libro Quinto, CAP. XXXX, he repeats what has already been stated in XXXVII. On the same page, 678, the previous chapter, the date of 1608 is mentioned.

39. The date of the digging of an irrigation ditch (Acequia) on August 11, 1598 is the only mention given for the digging of an irrigation ditch in the historical documents.

40. The location of the irrigation of crops and gardens given by Torquemada as being out of the smaller river is the place where Onate settled and established the Spanish seat of government which was called San Gabriel.

41. The present day Acequia de Chamita is the Acequia established on August 11, 1598 and the one in Torquemada's Monarchia Indiana, San Gabriel, irrigating the wheat, barley and vegetables out of the smaller river.

42. Multitudes of Witnesses under Oath gave testimony, that in the three years they had been at San Gabriel (1598-99-1600-01) they were planting and harvesting grains and vegetables, and it was increasing every year.

43. Laws of the Indies 1573. #137. One of the witnesses, Geronimo Marquez seems to fit the following: At the beginning of the building of the town, the governor shall name one person who will occupy himself with the sowing and cultivation of land, planting of grains and vegetables so that the settlers can be assisted in their maintenance.

44. Many witnesses testified under Oath, that they lived in the 400 house Indian pueblo, in which they cut doors and windows in the Spanish custom, where the governor had established his headquarters which was named San Gabriel, across the river from the other Pueblo. They said they sent the Indians to the other pueblo and that some had stayed as servants in the Spanish houses and that the Indians came and helped them with planting and cultivation.

45. The witnesses said that from the pueblo they named San Gabriel the 400 house Indian pueblo they had occupied, they could see the other pueblo across the river.

46. There is no evidence given by the two historians of an Acequia irrigating lands on the "east" side of the Rio del Norte in 1598-99 or 1600.

47. The States Historian and the Rio Chama Acequia Association Historian failed to provide any factual evidence of an August 11, 1598 Acequia being established on the "east" bank of the Rio Grande.

48. The State admits there is no evidence presented at the 1996 Trial of an "east" bank Acequia, by hiring a historian to look for and submit evidence.

49. Genealogical research is the method used to establish the link between community members and the 1598 Spanish Colonizers.

50. The Genealogical research conducted by David Ortiz shows family ties to 6 of the soldiers who came with Onate in 1598.

51. Genealogical research by Eloy Garcia, residing in Chamita, serving as present Mayordomo since 1999 showing ancestral family ties to the 1598 Colonizers.

52. To fail to recognize the August 11, 1598 establishment date of the present day named Acequia de Chamita would deny the accurate historical date of the earliest and principal irrigation "ditch" in the Spanish Empire of Nueva Mexico, that is now the United States of America.

53. The recognition of August 11, 1598 as Acequia de Chamita date of establishment is historically factual.

54. Research done by anthropologists, archeologists and State historians has shown that the Chamita area is the present physical location of historic San Gabriel.

55. The Acequia de Chamita is not a ditch but is in fact a self governing body of members with rights of ownership and use of water to irrigate their lands, from between the banks of the Acequia canal.

56. It is settled History. National Historic Preservation, New Mexico State Legislature, Rio Arriba County, City of Espanola, The Utton Center, State Historians, Archeologists, and the Acequia de Chamita Membership.

### **CONCLUSIONS of LAW**

1. The digging of the Acequia began at San Gabriel on August 11, 1598 by Don Juan de Onate and the Spanish settlers using 1500 barbarian Indians. San Gabriel 1598, is in the same area as Chamita in 2013.

2. The only way to irrigate lands in Chamita today, is through the same location that was used for irrigation in San Gabriel in 1598.

3. The Acequia de Chamita is the same Acequia as the Acequia in San Gabriel.

4. The establishment date for the first irrigation of lands under the Acequia de Chamita, is August 11, 1598.

5. The weight of the evidence supports the establishment date of the Acequia de Chamita, in Chamita, formerly San Gabriel.

6. The Acequia Attorney and his expert historian has failed to provide any clear and convincing evidence of first use of water for the Acequia de Chamita is 1600.

7. The Acequia Attorney and expert historians have misled and misinformed the Special Master with the stipulation based on opinion and no factual evidence for support.

8. The Plaintiff and his expert historian have failed to show any evidence of an Acequia on the "east" bank of the Rio Grande.

9. The Plaintiff and his expert historian have failed to show any evidence of an Acequia being dug on the "west" bank of the Rio Grande in 1600, much less three.

10. The State acknowledges that the two historians who stipulated an "east" bank Acequia in 1598 off the Rio Grande did not submit evidence in their exhibits, by hiring one of them to provide historical documentation for this trial.

11. The Acequia de Chamita Commissioners and members in 1996 were not served with the RCAA Lawyer and Historian exhibits of the 1996 trial and did not know of the "1600" capitulation.

12. Special Master, Doc.9546, filed 12/09/2009, page 8, B. Standard of Proof : Clear and convincing evidence "instantly tilt[s] the scales in the affirmative when weighed against the evidence in opposition and the fact finder's mind is left with an abiding conviction that the evidence is true." There was no opposition and no clear and convincing evidence for an east bank 1598 Acequia and three west bank acequia's in 1600.

13. Special Master, Doc.9546, filed 12/09/2009, page 10, Standard of Proof : While the State's evidence may be "reliable and credible," I disagree it rises to the level of "clear and convincing." In fact, no evidence introduced by either party during these hearings allows the fact finder to construct very much more than plausible inferences.

14. We are the opposition that fell through the crack in 1996, and now I have come to present my opposition with objection and clear and convincing evidence in court.

The Special Master's recommendation, that the first use of water for Acequia de Chamita as 1600, should be "set aside", reanalyzed and

modified to reflect the true and factual establishment date of August 11, 1598 for the Acequia de Chamita.

15. The Special Masters Findings of Fact and Conclusions of Law for a 1600 establishment date are clearly erroneous because of the lack of “clear and convincing” evidence in the exhibits presented to her.

16. The Acequia de Chamita’s Lawyer Findings of Facts and Conclusions of law, dated 97 APR -2, (No Certificate of Service) are clearly erroneous and should be set aside; any reference to Acequia de Chamita should reflect the true establishment date of August 11, 1598.

17. This plebian, David Ortiz, was excluded in 1996 as the State acknowledges; because “he fell through the cracks”, along with 4 acknowledged others.

18. All of the Ohkay Owingeh villages, in close proximity to one another are refered to as the “San Juan Cluster”. p15-6 Exh.TT

19. The population of Ohkay Owingeh and affiliated villages, including Yunque Owingeh was at least 1500 at the time of Onate’s arrival. Exh. p16 TT

20. According to contemporary record of his initial visitation, Onate conscripted 1,500 Indians to dig the first Iberian-style irrigation ditch at Yunque Owingeh, which he renamed as San Gabriel, making it the first Spanish Capital of New Mexico. p16 Exh. TT

21. The earlier name (San Juan) was bestowed in 1598 by the first Spanish colonial governor, Juan de Onate. His long caravan of colonists, wagons, and domestic stock arrived on August 11, 1598, and was taken into Yunque Owingeh where residence was established. p2 Exh.UU`

22. Juan de Onate and his colonists settled at the confluence of the Rio Grande and Rio Chama in 1598. p22 Exh.UU

23. In 1598 Ohkay Owingeh was the first pueblo to be colonized. p37 Exh.UU

24. It was forced to relinquish rooms in its sister village, Yunque, for permanent Spanish settlers' and soldiers' occupancy. p37 Exh.UU

25. This subfile 267, map 22, tract 17, David Ortiz and Cecilia S. Ortiz, husband and wife, parciante and commissioner of the Acequia de Chamita requests of the Special Master and or the Judge that if a priority date is to be assigned to us, it should be same as the Acequia de Chamita, our Acequia from which we draw our water to irrigate our lands, it should be the historically factual date of August 11, 1598.

### **Grand Conclusion**

The State Historian, the Rio Chama Acequia historian and his lawyer capitulated and stipulated that three acequia's were dug on the west bank of the Rio Grande and on the Chama River in 1600.

They failed to supply any supporting historical fact to back up that opinion.

The Special Master took 13 years looking for any evidence for three Acequia being dug in 1600 on the west bank of the Rio Grande in the Chama river confluence. What else could she do with what she had been given?

~~The State Historian states in the opening statement of his report, that he was asked to identify the first Spanish settlement in New Mexico.~~

~~The States Attorney told me he had been asked to identify the August 11, 1598 Acequia, since it had not been addressed in the 1996 trial.~~

The Historian has spent all his time in his exhibits trying to prove the Colonists had settled in the Indian pueblo on the east bank of the Rio Grande, dug an Acequia and shared the houses with the Indians until the



summer of 1600 and then moved to the Indian pueblo directly across the Rio Grande.

They then dug not only one, but 3 ditches off of the Rio Chama. He has failed to supply that historical documentation, nor can he.

In the contemporary historical documents of that era, his and mine, one and the same, there is only historical facts to support one Acequia even until 1610, which includes Torquemada if you accept the dates on Torquemada's two pages of planting, irrigating and harvesting in one place, the villa of San Gabriel.

If the Court should eliminate all the secondary sources and opinions of historians what remains is The Spanish Empire Laws of the Indies, Onate the Colonizer, Villagra and Torquemada, and their authors and only one Acequia that was established in the Royal Spanish settlement on August 11, 1598 in the villa of San Gabriel, the city of the Franciscan priests with the church and convents.

It is located between two rivers, the smaller one irrigates the grains and vegetables that are planted and grown there.

That's where they were living and growing grains and vegetables to maintain the colony. In the 400 house Indian pueblo of Yungue, that they named San Gabriel, directly across and in sight of the other pueblo of San Juan, right across the Rio Grande.

We, the descendants (David and Cecilia Ortiz) of those Spanish Colonizers are still here irrigating the same lands; the pueblos, the Indians, the Spanish descendants and the August 11, 1598 Acequia out of the smaller Chama river are still here. Amen and Amen.

97 APR -2

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO on the  
relation of the State Engineer,

Plaintiff,

v.

RAMON ARAGON, et al.,

Defendants.

97 APR -2 PM 4:20

No. CIV 7941-SC  
CLERK-SAN JUAN

RIO CHAMA  
ADJUDICATION SUIT

Section I (Mainstream)

ACEQUIAS' REQUESTED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW REGARDING PRIORITY DATES

COME NOW the Acequia de Chamita, Acequia de Hernandez, and Acequia de los Salazares, by and through their undersigned counsel and hereby request the Special Master to adopt the following Findings of Fact and Conclusions of Law with regard to the hearing had herein on the priority dates of water rights under the aforesaid three acequias.

FINDINGS OF FACT

1. In 1598 Juan de Oñate led a large expedition out of San Bartolomé in present Chihuahua to establish a permanent settlement in New Mexico. In this endeavor he was accompanied by 10 Franciscan friars and 129 citizen-soldiers and their families. (Stipulation #1).

2. The Oñate expedition arrived at present San Juan Pueblo on July 11, 1598. (Stipulation #2).

3. A month later with the assistance of 1,500 Pueblo Indians, Oñate initiated a project to build an acequia on the east bank of

the Rio Grande. (Stipulation #3).

4. In 1600 Spanish settlers moved to a new settlement across the Rio Grande to a location directly west of the Pueblo of San Juan, north of the Rio Chama, at the partially abandoned Pueblo of Yunque-Yunque, which the Spanish authorities named, "San Gabriel". (Stipulation #4).

5. The Spanish settlers promptly established an irrigation system at San Gabriel, constructing an acequia taken from the waters of the Rio Chama. This acequia irrigated wheat, barley, corn and other garden crops. San Gabriel was located in the area now known as Chamita. (Stipulation #5).

6. The Enrico Martinez Map of 1602 shows the settlement of San Gabriel to include the area south of the Rio Chama, near the confluence with the Rio Grande, irrigated by the Salazar and Hernandez acequias.

7. About 1608, some Spanish settlers left San Gabriel and relocated at the present site of Santa Fe. (Stipulation #6).

8. While the capital was being moved from San Gabriel to Santa Fe in 1608, Juan Martinez de Montoya reported that he was building a new house at San Gabriel.

9. Torquemada described the acequia and the crops grown at San Gabriel at a point some time between 1612 and 1615 in an account published in 1615.

10. In 1662 Francisco Gomez Robledo maintained an estancia at San Gabriel de Yunque which was owned before him by his father, Francisco Gomez.

11. The Pueblo Revolt of 1680 resulted in the destruction of virtually all of the locally-generated records in New Mexico from the founding of Santa Fe to 1680. It is thus impossible to determine how many Spanish settlers remained at San Gabriel after 1608, or the nature and extent of Spanish settlement at San Gabriel through the 17th Century based on contemporary documentation. (Stipulation #7).

12. In 1695 Diego de Vargas instructed Luis de Granillo to investigate the properties occupied by the pre-Revolt Spanish settlers that were located in today's Santa Cruz Valley, on the east bank of the Rio Grande up to Chimayo, and on the west bank of the Rio Grande north of San Ildefonso and Santa Clara Pueblos.

13. On March 20, 1695 Granillo conducted his reconnaissance and described the pre-Revolt Spanish haciendas and properties that he saw in Chimayo, the Santa Cruz Valley and on the west bank of the Rio Grande.

14. Granillo specifically mentioned crossing the Rio del Norte (Rio Grande) and gave a sequential account of the pre-Revolt Spanish properties and haciendas that he found on the west bank of the Rio Grande extending north to the confluence of the Rio Chama.

15. In 1710 a group of Santa Cruz residents petitioned for a large grant of agricultural lands on the west bank of the Rio Grande, at its confluence with the Rio Chama, bordering stone corrals, "corrales de piedra".

16. In 1714 Antonio de Salazar received a grant of land in an area that is irrigated today by the Hernandez and Salazar acequias

on the south bank of the Río Chama and west bank of the Río Grande, near their confluence. (Stipulation #8).

17. Salazar described this land as having been irrigated before the Revolt by his grandfather, Alonso Martin Barba. In his petition to Governor Juan Ignacio Flores Mogollón, Salazar stated that his grandfather Alonso Martín Barba, had owned these lands prior to the Pueblo Revolt of 1680. Salazar also requested the same access to farmlands that Martín Barba had used. (Stipulation #9).

18. The irrigated land at the confluence of the Rio Chama and Rio Grande included lands irrigated by both the Hernandez and Salazar acequias.

19. The "corrales de piedra" referred to in 1710 and again in 1714 were built by the pre-Revolt Spanish settlers, and the remains of the "corrales de piedra" exist today in the community by the same name, which lies along the Salazar ditch.

20. In 1712 Roque Madrid and eleven other settlers petitioned for lands at the Villa de Yunque for the purpose of improving the standing structures that existed there.

21. In 1714 Cristobal Crespín petitioned for lands along the north bank of the Rio Chama at present day Chamita. In the petition Crespín indicated that the acequia had been cleaned out in April of 1714. This is evidence that the Spanish settlers cleaned out a pre-existing acequia, rather than constructing or digging a new acequia.

22. The acequia mentioned in 1714 in Chamita is the same as

the present day Chamita Ditch.

23. There is no geomorphic or other evidence of any acequia other than the Acequia de Chamita in the Chamita area that would have irrigated lands at the site of Yunque or San Gabriel.

24. The irrigated fields at Chamita are located in one fairly flat floodplain with the settlement of Yunque located on a low rise surrounded by irrigated fields.

25. There is no practical way to irrigate from the Rio Chama lands at the site of Yunque other than through an acequia in the present location of the Chamita ditch.

26. The Hernandez ditch and the Chamita ditch share a common point of diversion on the Rio Chama.

27. The Hernandez ditch and the Salazar ditch are part of one continuous ditch irrigation system which irrigates the floodplain that lies south of the Rio Chama and west of the Rio Grande.

28. The Hernandez ditch and the Salazar ditch irrigate lands that were irrigated before the 1680 Pueblo Revolt by Alonso Martin Barba.

29. The descendants of the Oñate colonists and later pre-Revolt settlers that established themselves in the lower Rio Chama Valley returned to the area after the Revolt, and still live there today.

30. In the Granillo reconnaissance there is a clear reference that he crossed ("pasando") the Rio Grande to the west side, and on his right proceeded to describe pre-Revolt haciendas, or estancias in sequential order north toward the Rio Chama.



31. Granillo used the Spanish term, "pasando", or variations at least four times in his reconnaissance, and in each of these instances he was crossing either a river or an arroyo.

32. Ethnohistory is a research discipline that combines historical documentary research with the anthropological study of communities. Ethnohistory has a place among the many lines of inquiry that provide evidence that can be used to determine the priority dates for New Mexico acequias.

33. The documentary record of the history of New Mexico is not complete due to the destruction of historical documents during the Pueblo Revolt of 1680 and therefore ethnohistory is especially valuable. Ethnohistory links some of the families who lived in New Mexico before the Pueblo Revolt to later settlers and current residents.

34. The ethnohistorical research conducted for the Rio Chama water rights adjudication included oral interviews with community members residing in the Española Valley and documentary research that corroborated the genealogical links between the contemporary families who reside in the area and families who were in the area prior to the Pueblo Revolt of 1680.

35. Oral interviews often contain references to oral traditions that provide new insights into the interpretation of documentary history. Oral traditions are the values, cultural practices and historical knowledge that are passed from generation to generation.

36. Oral traditions widely shared in the Española Valley

describe the area of the confluence of the Rio Grande and the Rio Chama in which the acequias Chamita, Salazar, and Hernandez are located as the location of the Oñate colony. Oral traditions also link the people of this area to the Oñate colonists.

37. Scholarly research by anthropologists, archaeologists and historians undertaken since the late nineteenth century has shown that the Chamita area is the present physical location of historic San Gabriel.

38. The oral tradition of the lower Rio Chama Valley maintains that the area south of the Rio Chama, irrigated by the Salazar and Hernandez acequias, was settled contemporaneously with the settlement of San Gabriel by Oñate's colonists.

39. Genealogical research is a standard method used by historians and ethnohistorians to establish the ancestral links between contemporary community members and earlier generations of settlers. Genealogical research uses oral history in conjunction with documentary records to record the lineage of an individual and their ancestors.

40. The genealogical research conducted by the historian and former state archivist, J. Richard Salazar, who was raised in the Corral de Piedra area on the west side of the Rio Chama, shows that the Salazar family descends directly from Alonso Martin Barba, who held land near the confluence of the Rio Chama and Rio Grande, bordered by the Corral de Piedra prior to the Pueblo Revolt of 1680.

41. The genealogical research conducted by José Fidel

Trujillo, who was raised in the community of Chamita, shows that the Trujillo family also descends from Alonso Martin Barba, who held land near the confluence of the Rio Chama and Rio Grande, bordered by the Corral de Piedra prior to the Pueblo Revolt of 1680.

42. Genealogical research conducted by J. Richard Salazar and José Fidel Trujillo show ancestral ties among pre-Pueblo Revolt families who resided on both sides of the lower Rio Chama in the vicinity of the Chamita, Salazar and Hernandez acequias.

43. In interviews, community members who are parciantes along the Acequia de Chamita discussed the traditions of water sharing that they have maintained for generations with the Pueblo of San Juan. The water sharing traditions were enforced in a prior federal court decree in 1921.

44. Oral traditions recounted by lay witnesses establish a link between families living in the lower Rio Chama and Corral de Piedra communities and families who settled the Oñate colony.

45. Genealogical research conducted by lay witnesses connect their families to settlers who came to New Mexico with the Oñate colony or who were settled there prior to the 1680 Revolt.

46. The fiesta de Oñate which is celebrated annually in the Espanola Valley, is a tie to the historical traditions and cultures that have been part of the area since the settlement of the Oñate colony in 1598.

47. In Spanish spoken in Northern New Mexico the word "sacar" is used to refer to the annual spring cleaning of the acequia.

48. The Spanish word used to indicate the construction of a new acequia might be "abrir" (to open) or "hacer" (to make).

49. In Spanish spoken in Northern New Mexico, the word, "pasando", means to cross over.

50. To indicate that the river was flowing by, the Spanish phrase would be, "el rio corre".

51. To fail to recognize the pre-Revolt priority dates documented for the Acequia de Chamita, Acequia de Hernandez, and the Acequia de los Salazares would deny the accurate historical place of the Rio Chama communities as the earliest European settlements of New Mexico.

52. The assignment of a priority date of 1600 for the Acequia de Chamita, Acequia de Hernandez and Acequia de los Salazares is an important recognition of the long historical heritage of Española Valley settlers.

53. To deny the Pre-Revolt priority dates for the Acequia de Chamita, Acequia de Hernandez and Acequia de los Salazares would deny a century or more of New Mexico history, and more than four generations of the people who lived in the area.

54. To fail to recognize the Pre-Revolt settlement that Hispanic residents can document pertaining to the lands in the vicinity of the Chamita, Salazar and Hernandez acequias, would deny to the people of this area an integral part of their legacy as the earliest European settlers of New Mexico.

CONCLUSIONS OF LAW

1. Irrigation commenced at San Gabriel in 1600 by the colonists that came with Juan de Oñate. San Gabriel is in the same area as today's Chamita.

2. The only way to irrigate lands at San Gabriel is through an acequia located in the same place as the Chamita ditch.

3. Today's Acequia de Chamita is the same acequia that irrigated lands at San Gabriel in 1600.

4. The area irrigated by the Hernandez and Salazar acequias was settled by Oñate's colonists contemporaneously with the Chamita area.

5. The research discipline of ethnohistory provides valuable evidence in the determination of priority dates of water rights in this case especially because of the destruction of most of the documentary evidence that existed before the Pueblo Revolt of 1680.

6. The oral traditions and genealogical research prove that the Spanish colonists continued to occupy and irrigate the areas of the Chamita, Hernandez, and Salazar acequias throughout the seventeenth century until the 1680 Pueblo Revolt; and that the descendants of these early colonists returned after the reconquest of the area and their descendants still reside in the area today.

7. The priority date for the first irrigation of lands under the Acequia de Chamita, is 1600.

8. The priority date for the first irrigation of lands under the Acequia de Hernandez and Acequia de los Salazares is 1600.

9. Alternatively, the priority date for the first irrigation

of lands under the Acequia de Hernandez and the Acequia de los Salazares is at least 1680.

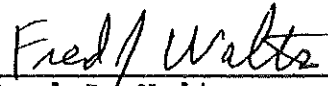
10. The weight of the evidence supports the continued occupation of the lower Chama Valley after the capital was moved in about 1608 from San Gabriel to Santa Fe.

11. There is substantial evidence of continued Spanish settlement and irrigation in the Chamita area, and the area irrigated by the Salazar and Hernandez acequias prior to the 1680 Pueblo Revolt.

12. The absence of Spanish settlers and non-irrigation of lands under the said three (3) acequias during the time period of 1680 until 1714 is excusable and does not constitute abandonment because of the settlers being forced from this area during the Pueblo Revolt.

13. The State has failed to provide clear and convincing evidence that the water rights under these acequias, and the priority date of 1600, were abandoned as alleged in 1615 or at any time prior to the Pueblo Revolt of 1680.

Respectfully submitted,

  
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing pleading was mailed on the 2nd day of April, 1997 to Jeff Pender, counsel for the New Mexico State Engineer and to the Special Master, Vickie Gabin.

Fred J. Waltz  
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